

BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the Matter of)

Freedom's Heritage Forum)

and Frank G. Simon, M.D., as treasurer;)

Timothy Hardy)

MUR 4012

MAY 19 1998

EXECUTIVE SESSION

SUBMITTED LATE

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On February 10, 1998, the Commission found probable cause to believe that the Freedom's Heritage Forum and Frank G. Simon, M.D., as treasurer ("Forum" or "Forum respondents"), violated 2 U.S.C. §§ 441a(a)(1)(A), 434(b), and 441d(a) by failing to disclose the making of \$37,583 in in-kind contributions (coordinated expenditures) to the Hardy for Congress and Lewis for Congress campaigns; making excessive contributions to the Hardy and Lewis campaigns; and failing to include appropriate disclaimers in its tabloids promoting the Hardy and Lewis campaigns.

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II. The Freedom's Heritage Forum and Frank G. Simon, M.D., as Treasurer

The Forum was notified of the Commission's probable cause findings
by letter dated March 4, 1998.

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Accordingly, this Office recommends that the Commission

authorize the

General Counsel to file a civil suit for relief in U.S. District Court against the Freedom's Heritage Forum and Frank G. Simon, M.D., as treasurer.

III. Timothy Hardy

Timothy Hardy was notified of the Commission's probable cause findings

by letter dated March 4, 1998. The letter, which was sent to Mr. Hardy by Federal Express, was returned to this Office with a notation that Mr. Hardy had refused delivery. Subsequently, this Office used the services of a private process server, Attorney Services of Kentucky ("ASK") to deliver the letter. ASK delivered the letter on March 26, 1998, after making several attempts to find Mr. Hardy.¹ Attachment 3.

In light of Mr. Hardy's repeated refusal to accept delivery of the Commission's probable cause notification, this Office does not believe that further attempts to obtain a response from Mr. Hardy would be fruitful. Because of the seriousness of these violations, (*see* General Counsel's Brief to Timothy Hardy, dated October 2, 1997), this Office recommends that the Commission authorize it to file civil suit for relief in U.S. District Court against Timothy Hardy.²

¹ ASK also reported that Timothy Hardy acted in a belligerent manner when he was served—denying that he was Timothy Hardy, refusing to produce an identification, and yelling and throwing the package back at the server.

IV. RECOMMENDATIONS

1.

2. Authorize the Office of the General Counsel to file a civil suit for relief in U.S. District Court against the Freedom's Heritage Forum and Frank G. Simon, M.D., as treasurer.

3. Authorize the Office of the General Counsel to file a civil suit for relief in U.S. District Court against Timothy Hardy.

4. Approve the appropriate letters.

Date

5/13/98


Lawrence M. Noble
General Counsel**Attachments**

- 1.
- 2.
3. Proof of Service.

Staff Assigned: Dominique Dillenseger

28044203732

PROOF OF SERVICE

STATE OF: WA
COUNTY OF: _____

File No: _____

CASE:	<u>Federal Election Commission</u> <u>Timothy Hardy</u>	Plaintiff(s) Defendant(s)																
SERVICE OF PROCESS ON:	<u>Timothy Hardy</u> (Name of entity to be served)																	
NAME OF SERVER:	<u>JOHN WOOSLEY</u> , undersigned, being duly sworn, deposes that he was at the time of service, over the age of twenty-one, was not a party to this action;																	
DATE OF SERVICE:	that on the <u>26th</u> day of <u>MARCH</u> 19 <u>98</u> at <u>4:30</u> <u>P.M.</u>																	
PLACE OF SERVICE:	at _____ in the city of <u>Lakeland</u> state of <u>FL</u>																	
DOCUMENTS SERVED:	the undersigned served the annexed papers: <u>Personal / Confidential B1/2 x 11" Manila</u> <u>envelope containing unknown documents</u>																	
PERSON SERVED:	A true and correct copy of the aforesaid papers were served in the above named party or witness in the following manner:																	
AND METHOD OF SERVICE:	<input checked="" type="checkbox"/> By personally delivering them into the hands of the person to be served. <input type="checkbox"/> (Substitute) By leaving a copy at his/her place of abode with some person of suitable age and discretion then residing therein, to wit: _____ <input type="checkbox"/> By delivering them to an officer or managing agent whose name and title is: _____ <input type="checkbox"/> Other: _____																	
DESCRIPTION OF PERSON RECEIVING DOCUMENTS:	The person receiving documents is described as follows: Sex <u>M</u> ; Skin color <u>M</u> ; Hair color <u>GRY</u> ; Facial hair <u>N/A</u> Age (approx.) <u>50</u> Height (approx.) <u>5'10"</u> Weight (approx.) <u>200 lbs</u> <input type="checkbox"/> To the best of my knowledge, said person was not engaged in the U.S. Military at the time of service																	
PROOF OF DUE & DILIGENT ATTEMPT:	<input type="checkbox"/> AFTER DUE AND DILIGENT EFFORTS, UNDERSIGNED WAS UNABLE TO EFFECT SERVICE <input type="checkbox"/> FACTS INDICATING DEFENDANT IS AVOIDING SERVICE ARE _____																	
	<table border="1" style="width:100%; border-collapse: collapse; text-align: center;"> <thead> <tr> <th style="width:25%;">DATES OF SERVICE ATTEMPTED</th> <th style="width:25%;">TIMES ATTEMPTED</th> <th style="width:25%;">ADDRESS ATTEMPTED</th> <th style="width:25%;">REASON FOR NON SERVICE</th> </tr> </thead> <tbody> <tr> <td><u>3/26/98</u></td> <td><u>6:00 P.M.</u></td> <td><u>41400 Towe</u></td> <td><u>not home</u></td> </tr> <tr> <td><u>3/27/98</u></td> <td><u>7:00 A.M.</u></td> <td><u>41400 Towe</u></td> <td><u>not home</u></td> </tr> <tr> <td><u>3/29/98</u></td> <td><u>2:00 A.M.</u></td> <td><u>41400 Towe</u></td> <td><u>not home</u></td> </tr> </tbody> </table>		DATES OF SERVICE ATTEMPTED	TIMES ATTEMPTED	ADDRESS ATTEMPTED	REASON FOR NON SERVICE	<u>3/26/98</u>	<u>6:00 P.M.</u>	<u>41400 Towe</u>	<u>not home</u>	<u>3/27/98</u>	<u>7:00 A.M.</u>	<u>41400 Towe</u>	<u>not home</u>	<u>3/29/98</u>	<u>2:00 A.M.</u>	<u>41400 Towe</u>	<u>not home</u>
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SIGNATURE OF SERVER:	Undersigned declares under penalty of perjury that the foregoing is true and correct. <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <u><i>John Woosley</i></u> Name of server <u>3/26/98</u> Date </div> <div style="width: 45%;"> Subscribed and sworn to before me this <u>10</u> day of <u>April</u> 19 <u>98</u> <u><i>Thomas W. J.</i></u> Notary Public <u>5/6/2001</u> My Commission Expires _____ </div> </div>																	

ATTACHMENT 3Page 1 of 1

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